

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA**

| | | |
|-------------------------------|---|---------------------------------------|
| PATRICIA A. WALSH, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No. 4:07-CV-00386-RP-CFB |
| |) | |
| PRINCIPAL LIFE INSURANCE |) | Hon. Robert W. Pratt |
| COMPANY and PRINCOR FINANCIAL |) | |
| SERVICES CORPORATION, |) | |
| |) | |
| Defendants. |) | |

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants Principal Life Insurance Company and Princor Financial Services Corporation hereby move for summary judgment.

1. Plaintiff Patricia A. Walsh filed this lawsuit under the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001 *et seq.* Mrs. Walsh claims that Defendants breached their fiduciary duties by persuading her to move her savings from her former employer's 401(k) plan to a Principal Life individual retirement account.

2. Defendants are entitled to summary judgment for two independent reasons. First, Mrs. Walsh cannot show that Defendants acted as fiduciaries when they took the actions complained of. Fiduciary status applies only "to the extent" a defendant takes certain actions or has certain powers, 29 U.S.C. § 1002(21)(A), and Defendants did none of those things: They did not exercise control or authority over plan management or plan assets; they did not provide investment advice for a fee; and they did not have discretionary authority or discretionary responsibility with respect to plan administration.

3. Second, even if there were a material issue of fact concerning fiduciary status, Defendants are still entitled to summary judgment because they did not breach any conceivable duty.

4. In support of their motion, Defendants submit the accompanying brief.

WHEREFORE, for the reasons set forth in the accompanying brief, Defendants respectfully request that this Court grant their motion for summary judgment.

Respectfully submitted,

PRINCIPAL LIFE INSURANCE COMPANY and
PRINCOR FINANCIAL SERVICES CORPORATION

By: /s/ Eric S. Mattson
One of their attorneys

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Defendants' Motion for Summary Judgment was served upon the attorneys listed below through the Court's CM/ECF electronic filing system on April 12, 2010.

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